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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/494,837	01/31/2000	Boney Mathew	0153.00084	4020

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EXAMINER

AFTERGUT, JEFF H

ART UNIT

PAPER NUMBER

1733

DATE MAILED: 07/07/2003

27

Please find below and/or attached an Office communication concerning this application or proceeding.

42

Office Action Summary

Application No.

09/494,837

Applicant(s)

MATHEW ET AL.

Examiner

Jeff H. Aftergut

Art Unit

1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 1733

Claim Rejections - 35 USC § 102/103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 22-26 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over E.P. 439,898 for the same reasons as expressed in paper no. 25, paragraph 4.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 22-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over E.P. 380,841 in view of any one of Arterburn, Busdiecker, Haren, Mathews, Gray et al, or Brumbach optionally further taken with Green for the same reasons as set forth in paragraph 6 of paper no. 25.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
6. Claims 22-26 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Art Unit: 1733

The applicant has amended the independent claim to recite that the hose assembly formed was "a flexible hose assembly", however the original disclosure did not expressly recite the formation of a "flexible" hose. It should be noted that "flexible" being a relative term in the art, the failure to even recite that a flexible hose was formed (much less define what was meant by "flexible" creates a problem in that applicant clearly was not in possession of the claimed invention at the time of filing.

Response to Arguments

7. Applicant's arguments filed 5-23-03 have been fully considered but they are not persuasive.

The applicant initially argues that the benefit of the hose formed via the process of E.P. '898 wherein the fibers were coated with the dispersion prior to the braiding operation was that the fiber had greater strength and that the "double dip" method had the advantage of greater bond strength between the braid layer and the inner liner. This is not well taken, in that there is no evidence of record which suggested that the "double dip" method of the claims achieved superior bond strength to that of E.P. '898. Additionally, the reference to E.P. '898 clearly suggested that a very good bond was developed between the braid and the inner liner using the techniques of manufacture described therein, see column 1, line 50-column 2, line 1, column 2, lines 15-20, column 4, lines 41-45, column 5, lines 22-27. The applicant is advised that it is not clear where applicant has determined from E.P. '898 that the coating of the individual fibers with the dispersion prior to the braiding of the same would have made the "fiber have greater strength". In fact the reference to E.P. '898 appeared to suggest that the coating operation performed prior

Art Unit: 1733

to the braiding operation would have resulted in a stronger bond between the fiber and the inner liner.

The applicant also asserts that the product is different because in E.P. '898 the fibers form the anchor points with the inner liner while in the claimed invention it is the coating of the second dispersion which filled the gap which formed the anchor points of the braid to the inner liner (i.e. the filled gaps are the anchor points). Applicant argues that the use of the fiber as an anchor point would have resulted in a hose which was too rigid and subjected to kinking which was a known problem of one manufacturer who employed the fiber coating and braiding technique of E.P. '898. This has not been found persuasive because as identified in the original disclosure at page 2, lines 28-33, page 11, line 27-page 12, line 6, and page 65, lines 17-20, the kinking of the hoses which included a non-metallic braid thereabout was a function of the "relative longitudinal movement between the inner tubular member and the braided layer" and this "relative slippage between the inner tubular member and the braided layer" made the hose assembly "susceptible to kinking". Clearly, then, it was the lack of a good bond between the braided layer and the inner liner which resulted in the kinking of the hose. As noted above, the reference to E.P. '898 achieved a good bond between the hose inner liner and the braid (along all of the anchor points as noted by applicant), and thus one skilled in the art would not have expected to have a kinking problem with the E.P. '898 hose. The applicant asserts that the problem existed without any evidence (but rather reached a conclusion of the same without providing any evidence of the same). As a result, it is believed that evidence of the kinking problem identified should be submitted which showed that the anchoring of the fibers would

Art Unit: 1733

have resulted in a kinking problem (as the original disclosure appears to dispute such a showing and the original disclosure was signed in the form of a declaration).

The applicant argues the unexpected benefits of the single dip method over the double dip method as identified in the earlier presented declaration. However, as previously noted, the reference to E.P. '898 is not practicing the single dip method and expressly suggested therein that the single dip method did not achieve as good of a bond as the method proposed therein where the fibers were coated prior to braiding. As such the applicant has not compared the closest prior art to the claimed invention.

Regarding the rejection under 35 USC 103, the applicant is advised that the claims at hand do not exclude the application of additional layers upon the adhesive coated tubing. In other words, while the references to any one of Arterburn, Busdiecker, Haren, Mathews, Gray et al, or Brumbach suggested that those skilled in the art might well have incorporated a second adhesive coating onto the braid in order to allow for the application of a second braid layer (note that Mathews appears not to provide a second braiding layer onto the first applied braiding), the claims have not excluded the application of the second braiding material on the hose inner liner and thus the claims are not commensurate in scope with the arguments.

The applicant argues that Green taught the application of the dispersion onto the liner prior to the braiding and that this was precisely what was taught by the prior art in the "single dip" methods. However the reference to E.P. '841 taught the application of the dispersion about the braided inner liner after application of the braiding (note that any one Arterburn, Busdiecker, Haren, Mathews, Gray et al, or Brumbach suggested that one would have applied an adhesive layer prior to braiding thereon). Green was cited to show that in the art of ptfе tubing it was

Art Unit: 1733

known per se to apply the dispersion upon the inner liner prior to braiding. Clearly, one viewing the prior art as a whole would have understood from Green and E.P. '841 that those skilled in the art knew in the manufacture of ptfe tubing reinforced with a braid to apply the dispersion both before braiding and after braiding and that in the art of braiding about an inner liner it was known per se to provide both coating as envisioned by any one of Arterburn, Busdiecker, Haren, Mathews, Gray et al, or Brumbach. The claims remain rejected under 35 USC 103 for the same reasons previously presented.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

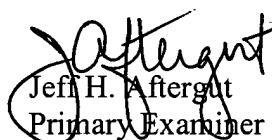
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff H. Aftergut whose telephone number is 703-308-2069. The examiner can normally be reached on Monday-Friday 6:30-3:00pm.

Art Unit: 1733

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael W. Ball can be reached on 703-308-2058. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


Jeff H. Aftergut
Primary Examiner
Art Unit 1733

JHA
July 3, 2003